

1 Z. Kathryn Branson, Bar No. 11540
kbranson@littler.com
2 Kelsey E. Stegall, Bar No. 14279
kstegall@littler.com
3 LITTLER MENDELSON, P.C.
3960 Howard Hughes Parkway
4 Suite 300
Las Vegas, Nevada 89169.5937
5 Telephone: 702.862.8800
Fax No.: 702.862.8811
6

7 Attorneys for Defendant
COX COMMUNICATIONS LAS VEGAS INC.

8 UNITED STATES DISTRICT COURT
9 DISTRICT OF NEVADA
10

11 GLORIA ANDERSON, an individual,
12 Plaintiff,

13 v.

14 COX COMMUNICATIONS LAS VEGAS,
15 INC., a foreign corporation; DOES I through X;
16 and ROE Corporations XI through XX,
inclusive,

17 Defendants.
18

Case No. 2:22-cv-00838-CDS-NJK

**DEFENDANT'S STATEMENT
REGARDING REMOVAL**

19 Pursuant to the Court's Minute Order dated May 26, 2022 (ECF No. 3), Defendant COX
20 COMMUNICATIONS LAS VEGAS INC. (hereinafter referred to as "Cox"), by and through its
21 attorneys of record, hereby provides the following Statement Regarding Removal:

22 **1. The date on which you were served with a copy of the complaint.**

23 The Complaint was served on the registered agent of Cox on May 5, 2022.

24 **2. The date on which you were served with a copy of the summons.**

25 The Summons was served on the registered agent of Cox on May 5, 2022.

26 ///

27 ///

28 ///

3. In removals based on diversity jurisdiction, the names of any served defendants who are citizens of Nevada, the citizenship of the other parties, and a summary of defendant's evidence of the amount in controversy.

Cox removed based on both federal question and diversity jurisdiction. The grounds for removal based on diversity jurisdiction as it pertains to citizenship are that plaintiff is a citizen of the State of Nevada, and Defendant is incorporated in Delaware with its principal place of business in Atlanta, Georgia. In regards to the amount in controversy requirement, Plaintiff seeks the following types of relief: (1) general damages in excess of \$15,000; (2) special damages; (3) consequential damages; (4) punitive damages; (5) liquidated damages; (6) injunctive relief, and attorneys' fees and costs. (Compl. ¶¶ 79-80 and Wherefore Clause.) Based on these requests, Plaintiff's sum at stake in this litigation is in excess of \$75,000.00 based solely on Plaintiff's demand for general and special damages. A review of jury verdicts on disability discrimination claims in Nevada federal and state courts from the last 15 years reveals that juries have rendered compensatory damages awards as high as \$627,916. *See Beckwith v. Dillards Dept. Stores*, Case No. A-364-772, 1997 WL 1716547 (Nev. Dist. Ct. Nov. 1, 1997). The *lowest* compensatory damages award that a Nevada jury has been willing to render still fell within striking distance of the jurisdictional threshold at \$64,217. *See Reaser v. Potlatch Corp.*, Case No. A565184, 2010 WL 7058511 (Nev. Dist. Ct. Mar. 23, 2010). Notably, the plaintiff in *Reaser* also obtained a punitive damages award of \$35,000, bringing her total award to \$99,217. *See id.* Finally, the median compensatory damages award in a disability discrimination case easily surpassed the jurisdictional threshold at \$92,786. *See Brinson v. Rancho Haven Property Owners Assoc'n*, CV07-01636, 2009 WL 8378721 (Nev. Dist. Ct. Jan. 15, 2009).

Moreover, attorney fees incurred before and after removal are also included within the calculation of the amount in controversy, if the plaintiff claims the fees and they are allowed by law. *See Fritsch v. Swift Transportation Co. of Arizona LLC*, 899 F.3d 785, 794 (9th Cir. 2018). The ADA provides that a court in its discretion may allow a reasonable attorney fee to the prevailing party. *See* 42 U.S.C. §12205. A lodestar analysis would govern the calculation of any potential attorney fee award. In *Bell v. VF Jeanswear LP*, the Ninth Circuit reviewed an attorney fee award in excess of \$1 million based on an hourly rate of \$510. *See* 819 F. Appx. 531, 534 (2020). Rather than decreasing

the award, the Ninth Circuit remanded with instructions to *increase* it. *See id.* 819 F. Appx. at 534–35. Here, based on the conservative assumptions that Plaintiff’s counsel will devote at least 100 hours of work to this matter at an hourly rate of \$250, Plaintiff, if successful, would stand to obtain an attorney fee award of \$25,000. Accordingly, diversity jurisdiction exists.

4. If your notice of removal was filed more than thirty (30) days after you first received a copy of the summons and complaint, the reason removal has taken place at this time and the date you first received a paper identifying the basis for removal.

Not applicable. Defendant filed its Notice of Removal on May 26, 2022, which was within 30 days after Cox was served with a copy of the Summons and Complaint on May 5, 2022.

5. In actions removed on the basis of the court’s jurisdiction in which the action in state court was commenced more than one year before the date of removal, the reasons this action should not summarily be remanded to the state court.

Not applicable. The state court action was commenced on April 27, 2022.

6. The name(s) of any defendant(s) known to have been served before you filed the notice of removal who did not formally join in the notice of removal and the reasons they did not.

None.

Dated: June 10, 2022

LITTLER MENDELSON, P.C.



Z. Kathryn Branson
Kelsey E. Stegall

Attorneys for Defendant
COX COMMUNICATIONS LAS VEGAS INC.

PROOF OF SERVICE

I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the within action. My business address is 3960 Howard Hughes Parkway, Suite 300, Las Vegas, Nevada 89169-5937. On June 10, 2022, I served the within document(s):

DEFENDANT'S STATEMENT REGARDING REMOVAL



By CM/ECF Filing – Pursuant to FRCP 5(b)(3) and LR 5-4, the above-referenced document was electronically filed and served upon the parties listed below through the Court's Case Management and Electronic Case Filing (CM/ECF) system:

Christian Gabroy, Esq.
Kaine Messer, Esq.
Gabroy / Messer
The District at Green Valley Ranch
170 South Green Valley Parkway
Suite 280
Henderson, Nevada 89012
Email: gabroy@gabroy.com
Email: kmesser@gabroy.com

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 10, 2022, at Las Vegas, Nevada.

/s/ Maribel Rodriguez
Maribel Rodriguez

4864-0589-2643.1 / 111727-1012